

**REMARKS****Status of the Claims**

Claims 1-3, 5-10, 12-16, and 18-20 are currently present in the Application, and claims 1, 8, and 14 are independent claims. Claims 1, 5, 8, 12, 14-16, and 18-20 have been amended, claims 4 11, and 17 have been cancelled, and no new claims have been added. Applicants are not conceding in this Application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the Application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

In particular, Applicants have amended independent claims 1, 8, and 14 to include limitations previously found in dependent claims 4 11, and 17, and have therefore canceled claims 4 11, and 17.

**Drawings**

Applicants note with appreciation that the Examiner has accepted Applicants' formal drawings that were filed concurrently with the application.

**Specification**

The Examiner noted the use of a few trademarks in Applicants' specification. Applicants have amended the specification in order to note the proprietary nature of the trademarks and to provide generic terminology. Accordingly, in light of Applicants' amendments to the specification as described above, Applicants respectfully request that the Examiner withdraw the rejection/objection.

In particular, the Examiner has objected to the specification due to the use of the Java trademark. Applicant has consulted the Sun Trademark and Logo Usage Requirements published at <http://www.sun.com/policies/trademarks/>. Note that Sun always uses the Java trademark with an uppercase "J" and lowercase "ava." Therefore, Applicant has not amended the specification to capitalize the entire word, as requested

by the Examiner, but, rather has used the Java trademark in the manner in which it is used by Sun Microsystems, the owner of the trademark.

Applicant further notes that Sun Microsystems requires that all uses of its trademarks be as adjectives, not as nouns. Examples of proper trademark use, given on Sun Microsystems' web page, include "the Java platform" and "the Java programming language." Applicant further submits that "a Java bean," "a Java Server Page," "Java code," "Java applications," "a Java package," "Java components," and "a Java Virtual Machine" would also be considered proper use of the Java trademark, as the word "Java" is being used as an adjective in each of these phrases. As requested by the Examiner, Applicant has amended the specification to include the appropriate noun, wherever needed, to clarify the use of a trademark. Applicant has further added the TM symbol to the first use of the Java trademark.

In addition, usage of the Unix™ and the Linux™ have been amended to note the proprietary nature of the trademarks and to provide generic terminology. In light of Applicants' amendments, Applicants respectfully request the objection to Applicants' use of the trademarks found in Applicants' specification.

### **Claim Objections**

Claims 15-17 were objected to because of an informality. Applicants have amended claims 15 and 16 to address this informality and have canceled claim 17. Therefore, Applicants respectfully request that the Examiner withdraw this objection.

### **Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 101**

The Examiner rejected claims 14-20 as being directed towards non-statutory subject matter as set forth in 35 U.S.C. § 101. Applicants have amended independent claim 14 so that these claims are now directed at "tangible" media which falls within the current scope of allowable subject matter under § 101. In light of Applicants' amendment of the independent claim, Applicants respectfully request that the rejection under 35 U.S.C. § 101 be withdrawn.

**Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 112**

Claims 6, 13, and 20 were rejected as allegedly having insufficient antecedent basis for the term “a third time.” Applicants respectfully disagree. First, the term “a third time” appears in claims 7, 13, and 20 (not in claim 6). Second, the term “a third time” describes the “branching” limitation. In these claims, “a third time” is used to note that the preceding “branching” limitation is the third time

**Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 102**

Claims 1-3, 8-10, and 14-16 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated, and therefore unpatentable over U.S. Patent No. 6,862,650 to Matthews et al. (hereinafter “Matthews”). Applicants respectfully traverse the rejections. In particular, each of the independent claims (claims 1, 8, and 14) have been amended to include the limitations set forth in original dependent claims 4, 11, and 17, respectively. Claims 4, 11, and 17 were rejected as being allegedly obvious under 35 U.S.C. § 103. Therefore the rejections of Applicants’ independent claims as being anticipated over Matthews are now moot and the rejections of Applicants’ amended independent claims are discussed in the next section which addresses the obviousness rejections set forth in the Office Action.

**Claim Rejections – Alleged Obviousness Under 35 U.S.C. § 103**

Original claims 4-7, 11-13, and 17-20 were rejected under 35 U.S.C. § 103 as allegedly being obvious, and therefore unpatentable, over Matthews in view of U.S. Patent Publ. No. 2004/0167945 to Alexander Garthwaite (hereinafter “Garthwaite”). As noted above, Applicants have amended claims 1, 8, and 14 to include the limitations previously found in dependent claims 4, 11, and 17, and Applicants have therefore canceled claims 4, 11, and 17. As result, Applicants are re-presenting claims 4, 11, and 17 in independent form as amended claims 1, 8, and 14.

The Matthews patent and the instant application were, at the time that the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The instant application was filed on or after the filing date of the Matthews patent. The Matthews patent qualifies as prior art only under 35 U.S.C. § 102(e). The instant application and the Matthews patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the Matthews patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should be withdrawn.

Because Matthews cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability, the rejection of claims 1, 8, and 14 is therefore traversed. Applicants note that the Matthews patent was used in support of the rejections of all of the remaining claims. Consequently, claims 1-3, 5-10, 12-16, and 18-20 are allowable over the prior art.

### **Conclusion**

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

By /Joseph T. Van Leeuwen, Reg. No. 44,383/  
Joseph T. Van Leeuwen, Reg. No. 44,383  
Van Leeuwen & Van Leeuwen  
Attorneys for Applicant  
Telephone: (512) 301-6738  
Facsimile: (512) 301-6742